

REMARKS

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 47, 55-57, 77, 84, 91 and 98 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Brown '493 is respectfully traversed and should be withdrawn. As discussed below, Brown '493 is not a proper reference.

The rejection of claims 48-54 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Claims 48-54 depend, directly or indirectly, from claim 47, which is believed to be allowable.

The rejection of claims 59-62 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Applicant's representative believes the Examiner intended to refer to Brown '493 (not Heinonen) in this rejection. While paragraph 6 on page 9 refers to Heinonen, the details of the rejection refer to Brown (see bottom of page 10). Applicant's representative interprets the rejection to be either Fujimoto in view of Brown, or Fujimoto in view of Heinonen, in further view of Brown. As discussed below,

Brown '493 is not a proper reference, so in either case the rejection is traversed and should be withdrawn.

The rejection of claims 78-93 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Claims 78-83 depend, directly or indirectly, from claim 77, which is believed to be allowable.

The rejection of claims 85-90 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Claims 85-90 depend, directly or indirectly, from claim 84, which is believed to be allowable.

The rejection of claims 92-97 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Claims 92-97 depend, directly or indirectly, from claim 91, which is believed to be allowable.

The rejection of claims 99-104 under 35 U.S.C. §103 as being unpatentable over Fujimoto '821 in view of Heinonen '633 is respectfully traversed and should be withdrawn. Claims 99-104 depend, directly or indirectly, from claim 98, which is believed to be allowable.

Brown '493 is not available as a reference. In particular, the present application claims priority to Brown '493.

In a telephone conference between Examiner Koppikar and Applicant's representative, Chris Maiorana, on October 25, 2006, Examiner Koppikar stated that the PAIR system showed the present application as having a priority to U.S. Patent 6,101,478, but not to 5,897,493. An examination of the *summary* in PAIR confirms this to be the case. The Examiner reasoned that U.S. Patent 6,101,478 would not be an appropriate reference due to the priority claim. The Examiner then reasoned that U.S. Patent 5,897,493 was filed before the earliest priority of the present application and would therefore be an appropriate reference. Applicant's representative disagrees that the present application does not claim priority to 5,897,493. U.S. Patent 6,101,478 is a continuation of U.S. Patent 5,897,493. The present application claims priority to both U.S. Patent 6,101,478 and U.S. Patent 5,897,493.

In particular, the original filing of the present application included the priority statement:

This application is a Continuation in Part of U.S. Serial Number 09/517,140 filed March 2, 2000, which is a Continuation of U.S. Serial No. 08/975,774 filed November 21, 1997, which is a continuation [of] U.S. Patent No. **5,897,493** issued April 27, 1999, which claims priority from Provisional Application Ser. No. 60/041,746 filed March 28, 1997 and from Provisional Application Ser. No. 60/041,751 filed March 28, 1997. All of the above named applications are hereby incorporated by reference. (Emphasis Added)

Various portions of the claim for priority were amended during prosecution. The result of the amendments to this paragraph was the claim of priority marked "B1" in the file history as:

This application is a Continuation-in-Part of U.S. Serial Number 09/517,140 filed March 2, 2000, which is a continuation of U.S. Serial Number 08/975,774 filed November 21, 1997, which is a Continuation of U.S. Patent No. **5,897,493** issued April 27, 1999, which claims priority from Provisional Application Serial Number 60/041,746 filed March 28, 1997 and from Provisional Application Serial Number 60/041,751 filed March 28, 1997. All of the above named applications are hereby incorporated by reference. (Emphasis Added)

Therefore, the present application does claim priority to U.S. Patent 5,897,493 to Brown, the inventor of the present application. Therefore, Brown '493 does not appear to be a proper reference against the presently claimed invention based on the rationale provided by the Examiner in the telephone discussion. As pointed out above, every rejection, either directly or indirectly, relies on Brown '493. Since Brown '493 is not a proper reference, all the rejections should be withdrawn.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

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